

ITEM: 19

SUBJECT: Cleanup and Abatement Account Fund Resolution

BOARD ACTION: *Consideration of a Resolution Supporting Project Funding for Red Elephant Mine, Lake County*

BACKGROUND: Monies received from court judgments and the assessment of administrative civil liabilities fund the Cleanup and Abatement Account (CAA). The CAA monies may be used to contract for services to clean up a waste or abate the effects of a waste discharge or remedy an actual or potential public health threat. For the State Board to approve a project for CAA funding a Regional Board Resolution must be included in the application. The State Board will be approving this year's project list at their September Board meeting.

Lake County is requesting \$50,000 from the CAA Fund for the cleanup and stabilization of a dam constructed at Red Elephant Mine, on 80 acres of land near Middletown in Lake County. Mr. Walter Johnson (hereafter Discharger) conducted activities at the site that included extensive mining and land clearing activities and the construction of an earthen dam. The property and dam are located at 27697 Morgan Valley Road in Middletown and are known as the Red Elephant Mine.

On 12 January 2005, Regional Board staff inspected and observed the discharge of sediment and debris to surface waters and surface water drainage from past mining and excavation activities. Regional Board staff also observed the failure of portions of the man-made earthen dam. Areas of soil were sloughing away from the dam into surface waters. Linear cracks and separation on the top of the dam were also observed. The dam was constructed without permits from Lake County, or any state or federal agency. There was sediment and debris deposited into surface waters tributary to Jericho Creek and Lake Berryessa due to the erosion and sloughing. Continued erosion and sloughing of materials from the dam threatens to impact water quality.

Lake County Development Department, Building and Safety Division issued a Notice of Nuisance for un-permitted grading, requiring the Discharger to submit plans for all required grading, construction, environmental and erosion control work prior to doing the work. The County, on 3 March 2005, issued a Cease and Desist order requiring the Discharger to cease mining and grading activities immediately.

On 23 March 2005, the Executive Officer issued Cleanup and Abatement Order No. R5-2005-0706 to Walter Johnson and Red Elephant Mine LLC. The C&A required the Discharger to:

"Clean up and abate, forthwith, the condition of earthen materials, soil, sediment, and debris materials discharged or placed into surface

waters and surface water drainage courses”

To comply with the order the Discharger is required to:

- a) Clean up all soil discharged to Jericho Creek from construction activities. Remove the dam and all materials used to construct it.*
- b) Stabilize and restore the affected area to its natural condition prior to the construction of the dam”.*

The Discharger failed to comply with the C&A Order and the Lake County Cease and Desist Order. The Discharger also abandoned operations at the site. Lake County has requested financial assistance to clean up and stabilize the site to prevent the continued discharge of earthen materials, soil, sediment, and debris materials to surface waters and to investigate and initiate remediation if mercury is found to be a source of pollution.

RECOMMENDATION: Adopt the resolution as proposed.

Mgmt. Review _____
Legal Review _____